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ATTACHMENT C.2.1

DEPARTMENT OF LAND AND NATURAL RESOURCES

Repeal of Chapter 13-125 and adoption of Chapter 13-126
Hawaii Administrative Rules

Month XX, 200X.

1. Chapter 125 of Title 13, Hawaii Administrative Rules, entitled "Rules Regulating Wildlife Sanctuaries" is repealed.
2. Chapter 126 of Title 13, Hawaii Administrative Rules, entitled "Rules Regulating Wildlife Sanctuaries" is adopted to read as follows:

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"HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 5 FORESTRY AND WILDLIFE

PART 2 WILDLIFE

CHAPTER 126

RULES REGULATING WILDLIFE SANCTUARIES

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Historical Note: This chapter is based substantially upon Chapter 13-125 [eff 9/28/81]

Subchapter 1: General Provisions

§13-126-1 Purpose. The purpose of these rules is to conserve, manage, and protect indigenous wildlife and their habitats in sanctuaries. [Eff insert date here] (Auth: HRS §183-2, 191-22, 195D-3, 195D-6) (Imp: HRS §183-2, 191-22, 195D-3, 195D-4, 195D-5, 195D-6)

§13-146-2 Definitions. As used in this chapter unless otherwise provided:

"Abandoned property" means any and all property, including personal property, items, materials, equipment, fixtures, motor vehicles or vessels that have been left unattended on land owned or controlled by the State for a continuous period of more than twenty-four hours without the written permission of the board or its authorized representative.

"Aquatic life" means any finfish, crustacean, mollusk (including sea shell and opihi), live coral, algae or limu, or other marine life, or eggs thereof.

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"Authorized representative," means any person authorized by the board of land and natural resources to act for the board including the chairperson, deputy directors, the forestry and wildlife administrator, forestry and wildlife managers, foresters, wildlife biologists, and conservation enforcement officers.

"Bicycle" means any type of non-motorized two or three-wheeled vehicle.

"Board" means the board of land and natural resources.

"Camper" means any person engaged in a camping activity.

"Camping" means being in possession of a backpack, tents, blankets, tarpaulins, or other obvious camping paraphernalia, any time after one hour after sundown until sunrise in a wildlife sanctuary. Includes the use of a wildlife sanctuary for living accommodation purposes such as sleeping activities, or making preparations to sleep (including the laying down of bedding for the purpose of sleeping), or storing personal belongings, or making any fire, or using any tents or shelter or other structure or vehicle for sleeping or doing any digging or earth breaking or carrying on cooking activities. The above-listed activities constitute camping when it reasonably appears, in light of the circumstances, that the participants, in conducting these activities, are in fact using the area as a living accommodation regardless of the intent of the participants or the nature of any other activities in which they may also be engaging.

"Chairperson" means the chairperson of the board of land and natural resources.

"Commercial activity" means the use of or activity in a state wildlife sanctuary for which compensation is received by any person for goods or services or both rendered to customers or participants in that use or activity. Display of merchandise, soliciting, demanding or requesting gifts, money, or services shall be considered commercial activity. Commercial activities

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include activities whose base of operations are outside the boundaries of the state wildlife sanctuary, or provide transportation to or from the state wildlife sanctuary.

"Compensation" includes, but is not limited to monetary fees, barter, or services-in-kind.

"Department" means the department of land and natural resources.

"Fishing" means to fish for, catch, capture, or harvest, or to attempt to fish for, catch, capture, or harvest aquatic life. The use of any gear, equipment, tool, or other means by any person who is in the water, in a vessel on the water, or on or about the shore to fish for, catch, capture, or harvest, or to attempt to fish for, catch, capture, or harvest aquatic life shall be construed as fishing activity.

"Hunting" means the act of pursuing with the means to take, kill or capture wildlife.

"Motorized vehicle" means a vehicle of any shape or form that depends on a motor (gas, electric, or other fuels) for propulsion.

"Native" means any species that occurs naturally, or is indigenous to the Hawaiian Islands.

"Nude" means uncovered post-pubertal human genitals, pubic areas, or the nipple or areola of post-pubertal human female breasts.

"Premises" means any lands within the state wildlife sanctuary system.

"State Wildlife Sanctuary System" means those public lands or lands under the control and management of the Division of Forestry and Wildlife which have been designated as State Wildlife Sanctuaries.

"Subsistence" means harvesting for direct personal or family consumption and not for commercial purposes.

"Take" means to harass, harm, pursue, hunt, shoot,

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wound, kill, trap, capture, or collect or to attempt to engage in any such conduct.

"Traditional and customary practices" means Native Hawaiian traditional and customary practices as defined under the Hawaii State Constitution, statutes, and case law.

"Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a roadway or highway, including mopeds, bicycles and devices other than bicycles moved by human power.

"Wildlife" means any non-domesticated member of the animal kingdom or feral member of any domesticated animal, whether reared in captivity or not, including any mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof.

§13-126-3 Designation of wildlife sanctuaries. The board may declare and establish wildlife sanctuaries for the conservation, management, and protection of indigenous wildlife and their habitats. (Auth: HRS §183-2, 195D-3, 195D-6) (Imp: HRS [Eff insert date here §183-2, 195D-3, 195D-6])

§13-126-4 Prohibited entry. It is prohibited for any person to land upon, enter or attempt to enter, or remain in the following wildlife sanctuaries except as authorized by permit by the board or its authorized representative. [Eff insert date here] or (Auth: HRS §183-2, 195D-3, 195D-6) (Imp: HRS §183-2, 195D-3, 195D-6)

[Table to be inserted here listing all CLOSED sanctuaries]

§13-126-5 Restricted entry. It is prohibited for any person to land upon, enter or attempt to enter, or remain in the following wildlife sanctuaries except as authorized by the following restrictions or by permit by the board or its authorized representative. [Eff insert date here] or (Auth: HRS §183-2, 195D-3, 195D-6) (Imp: HRS §183-2, 195D-3, 195D-6)

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[Table to be inserted here listing all RESTRICTED sanctuaries accompanied by detailed information and maps identifying specific areas within each sanctuary open to public access, and the conditions under which those areas are open]

§13-126-6 Closing of areas. The board or its authorized representative may close or restrict the public use of all or any portion of a wildlife sanctuary for up to two years, when deemed necessary by the board for the protection of the biological, geological, or cultural resources of the area or the safety and welfare of persons or property, by the posting of appropriate signs indicating the duration, extent, and scope of closure. Closures may be renewed with the approval of the board or its authorized representative.

[Eff insert date here] (Auth: HRS §183-2, 195D-3, 195D-6) (Imp: HRS §183-2, 195D-3, 195D-6)

§13-126-7 Visiting hours.

(a) Visiting hours for all sanctuaries are restricted to the daylight hours between sunrise and sunset unless otherwise permitted by the board or its authorized representative.

(b) The board or its authorized representative may establish a reasonable schedule of visiting hours for all or portions of the wildlife sanctuary by the posting of appropriate signs indicating the extent and scope of closure.

[Eff insert date here] (Auth: HRS §183-2, 195D-3, 195D-6) (Imp: HRS §183-2, 195D-3, 195D-6)

§13-126-8 Posted signs. All persons shall observe and abide by officially posted signs within wildlife sanctuaries.

§13-126-9 Permits.

(a) The board or its authorized representative, may issue permits to conduct activities otherwise prohibited by this chapter for the following purposes:

(1) Scientific, research, or education purposes.

(2) Conservation and management.

(3) Subsistence, traditional, and customary practices by Native Hawaiians consistent with the long-term preservation of the wildlife

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sanctuary resources in accordance with permit conditions specified in (b) below.

(4) Any other purpose consistent with chapter 195D, Hawaii Revised Statutes.

(b) All permits shall be subject to standard conditions, as approved by the board, including but not limited to the following:

(1) The permittee shall adhere to project specifications given in the permit application and in the permit conditions;

(2) Disturbance of vegetation and wildlife shall be avoided as much as possible;

(3) Precautions shall be taken to prevent introductions of plants or animals not naturally present in the area. The permittee is responsible for making sure that participants' hiking clothes and equipment are free of seeds or dirt to lessen the chance of introducing any non-native plants or soil animals. Should an infestation develop, that is attributable to the permittee, whether it occurs during or after the permit period, and even though it may be only indirectly attributable to the project activities, the permittee shall be responsible for eradication by methods specified by the department or the Division of Forestry and Wildlife;

(4) This permit does not exempt the permittee from complying with any other applicable rule or statute;

(5) The State of Hawaii shall be released and held harmless from any and all liability for injuries or death, or damage or loss of property however occurring during any activity related to this permit.

(c) The board or its authorized representative may attach special conditions on the permit, including but not limited to reporting requirements, limitations on the size of groups or the length of time for which the permit is valid. Failure to comply with any of these conditions shall render a permit void.

(d) All permittees shall carry the permit with them at all times while on the premise and shall, upon request, show the permit to any law enforcement officer, the board or its authorized representative.

(e) Permits are not transferable. If the permittee is a partnership, joint venture, or corporation, the sale or transfer of 25% or more of ownership interest or stocks by dissolution, merger, or any other means, shall be deemed a transfer for purposes of this subsection and subject to the right of

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the department to terminate this permit effective the date of the sale or transfer.

(f) The board or its authorized representative may revoke or cancel a permit without prior notice when an emergency is declared by the department or other proper authority or when the permitted use poses an immediate threat to the health, safety, and welfare of the public or natural, geological, or cultural resources of the wildlife sanctuary.

(g) The board or its authorized representative may revoke or cancel any permit:

(1) for any infraction of the terms and conditions of the permit;

(2) upon a finding that the permitted use threatens to damage the integrity or condition of the natural, geological, or cultural resources in the wildlife sanctuary;

(3) upon a finding that the permitted use poses a threat to the health, safety, or welfare of the general public or otherwise negatively impacts the general public's use and enjoyment of the premises; or

(4) upon closure of a wildlife sanctuary pursuant to section 13-209-4.5.

(h) The provisions of this section shall not exempt the applicant from complying with any other applicable rule or statute.

[Eff insert date here] (Auth: HRS §183D-2, 195D-6)

(Imp: HRS §183D-2)

§ 13-126-10 Applications for Permits.

(a) All applications for permits shall be submitted in writing to the board or its authorized representative on the form prescribed by the department. The application shall contain the following information:

(1) name of applicant, and if relevant, affiliation and title;

(2) contact information, including name of primary contact, mailing address, and if available, phone number(s), fax number, and email address;

(3) the period of time for which the permit is requested, not to exceed one year;

(4) the wildlife sanctuary(s) involved;

(5) a map illustrating the premise and the location of the proposed use;

(6) a description of the proposed use;

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- (7) a discussion of how the proposed use satisfies subsections (b)(1) - (b)(6) below;
- (8) an assessment of the potential environmental impact the use may have on the sanctuary or the surrounding area;
- (9) signature of the applicant;
- (10) any other information as determined by the department.

(b) In evaluating the merits of an application for a permit, the board or its authorized representative shall apply the following criteria:

- (1) the proposed use cannot be conducted elsewhere;
- (2) the proposed use is consistent with the purpose and objectives of the wildlife sanctuary system;
- (3) the proposed use is consistent with the management plan developed for the sanctuary;
- (4) the proposed use provides a benefit (direct or indirect) to the wildlife sanctuary system and/or to individual sanctuaries;
- (5) the proposed use will not damage or threaten to damage the integrity or condition of the natural, geological, and/or cultural resources in the wildlife sanctuary and adjacent area or region;
- (6) the proposed use complies with provisions and guidelines contained in Chapter 205A, HRS, entitled "Coastal Zone Management," where applicable; and
- (7) the applicant shall have complied with, or be in compliance with, the conditions of any previously approved permit;

(c) The applicant shall have the burden of demonstrating that the proposed use is consistent with the above criteria.

(d) The board or its authorized representative may hold a public hearing on an application where determined by the chairperson that the scope of the proposed use or the public interest requires a public hearing. Notice of hearing shall be given not less than twenty days prior to the date set for the hearing. Notice of the time and place of the hearing shall be published at least once in a newspaper in the county where the wildlife sanctuary is located;

§13-126-11 Penalties. Any person who violates any provision of this chapter shall be guilty of a petty misdemeanor and punished as provided by law, shall be held liable for restoration of or restitution for any

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damages to public or private property, and also shall be subject to the confiscation of any tools and equipment used in the violation and of any wildlife, plants, objects or artifacts removed illegally from the premises. [Eff insert date here] (Auth: HRS §183-2, 195D-3, 195D-6) (Imp: HRS §183-2, 195D-3, 195D-6)

§13-126-12 - §13-126-19 (Reserved)

Subchapter 2 Prohibited Activities

§13-126-20 Unattended and abandoned property.

(a) No person shall abandon motor vehicles or any other property within any state wildlife sanctuary. All such property may be confiscated, impounded or disposed of by the board or its authorized representative.

(b) Vehicles left unattended in closed areas may be impounded by the board or its authorized representative at any time.

(c) Vehicles or other property left unattended that interfere with the safe or orderly management of the premises may be impounded by the board or its authorized representative at any time.

(d) All impounded vehicles shall be towed to a place of storage. Towing, storage, and other related costs shall be assessed pursuant to section 290-11, HRS.

(d) All impounded or confiscated property, other than vehicles, shall be moved to a place of storage. The owner shall be assessed moving, storage, and other related costs and shall bear the responsibility for the risk of any loss or damage to their property. Towing, storage, and other related costs shall be assessed pursuant to section 290-11, HRS.

(e) Abandoned vehicles shall be sold at public auction pursuant to section 290-11, HRS. All other impounded or confiscated property shall be sold at public auction pursuant to section 199-7, HRS. [Eff insert date here] (Auth: HRS §183-2, 195D-3, 195D-6) (Imp: HRS §183-2, 195D-3, 195D-6)

§13-126-21 Agricultural use of premises. No person shall run at large, herd, drive across, or graze animals or use the premises for any other agricultural purpose except under a valid lease, contract, or permit issued by the board. [Eff insert date here] (Auth: HRS §183-2, 195D-3, 195D-6) (Imp: HRS §183-2, 195D-3, 195D-6)

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§13-126-22 Aircraft. No person shall land, launch, or cause any aircraft to approach within 500 feet of any sanctuary, as defined in section 261-1, HRS, including airplanes, airships, balloons, gliders, hang gliders, para-gliders, helicopters, parachutes, dirigibles, and other similar means of conveyance except with the written permission of the board or its authorized representative or in the case of an emergency. [Eff insert date here] (Auth: HRS §183-2, 195D-3, 195D-6) (Imp: HRS §183-2, 195D-3, 195D-6)

§13-126-23 Animals and plants.

(a) No person shall introduce, feed, remove, injure, take, or kill any plant or animal, either in whole or in part, except as authorized by the Board or authorized representative or as provided by rules of the Board.

(b) The introduction by any person of any animal or plant and the placement, abandonment or leaving of any animal or plant in a state wildlife sanctuary is strictly prohibited except as authorized by permit by the board or its authorized representative. This section shall not apply to dogs when authorized by the hunting rules of the department or service animals accompanying their handlers.

(c) Animal pets are not permitted in wildlife sanctuaries, except as authorized by the board or its authorized representative, or by the rules of the department. Any animal, such as a dog or cat, found roaming and loose in a state wildlife sanctuary may be impounded or destroyed.

(d) No person shall ride horses except in areas designated for this purpose by the board or its authorized representative or by appropriate signs. [Eff insert date here] (Auth: HRS §183-2, 195D-3, 195D-6) (Imp: HRS §183-2, 195D-3, 195D-6)

§13-126-24 Archaeological and historical features. No person shall appropriate, damage, remove, excavate, disfigure, deface, or destroy objects of antiquity, prehistoric ruins and monuments; provided, however, that the board or its authorized representative may permit qualified persons or institutions to examine ruins, excavate archaeological sites and gather objects

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of antiquity. [Eff insert date here] (Auth: HRS §183-2, 195D-3, 195D-6) (Imp: HRS §183-2, 195D-3, 195D-6)

§13-126-25 Boating.

(a) No person shall operate, leave unattended, beach, park, or launch vessels, as defined in section 200-6, HRS, including but not limited to boats, motorboats, houseboats, rowboats, powerboats, jet skis, sailboats, fishing boats, towboats, scows, flatboats, cruisers, motor vessels, ships, barges, tugs, floating cabanas, party boats, charter boats, windsurfers, catamarans, ferryboats, canoes, rafts, kayaks, surfboards or body boards, or any similar buoyant devices permitting or capable of free flotation in any state wildlife sanctuary, except with the written authorization of the board or its authorized representative, as permitted by the rules of the department, or in cases of emergency.

(b) No person shall moor or anchor vessels as defined in subsection (a) without the written permission of the board or its authorized representative, except as permitted by the rules of the department, or anchoring in cases of emergency. [Eff insert date here] (Auth: HRS §183-2, 195D-3, 195D-6) (Imp: HRS §183-2, 195D-3, 195D-6)

§13-126-26 Camping. No person shall camp, erect any tent, tarpaulin or other structure, or use recreational trailers or other camper units within any state wildlife sanctuary, except with the prior written authorization of the board or its authorized representative or as permitted by the rules of the department. [Eff insert date here] (Auth: HRS §183-2, 195D-3, 195D-6) (Imp: HRS §183-2, 195D-3, 195D-6)

§13-126-27 Communication equipment. No person shall install or operate aereals, antennas, transmitters or other radio, telephone, television, or other communication equipment except hand held devices or equipment installed within vehicles without the written permission of the board or its authorized representative. [Eff insert date here] (Auth: HRS §183-2, 195D-3, 195D-6) (Imp: HRS §183-2, 195D-3, 195D-6)

§13-126-28 Disorderly conduct. No person shall engage in disorderly conduct, as defined in section 711-1101, HRS, within the premises. [Eff insert date here] (Auth:

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HRS §183-2, 195D-3, 195D-6) (Imp: HRS §183-2, 195D-3, 195D-6)

§13-126-29 Explosives. No person shall use or possess fireworks, firecrackers, or explosives, except with the written permission of the board or its authorized representative. [Eff insert date here] (Auth: HRS §183-2, 195D-3, 195D-6) (Imp: HRS §183-2, 195D-3, 195D-6)

§13-126-30 False report. No person shall give a false or fictitious report or other information to any authorized representative investigating an accident or any violation of law or administrative rule. [Eff insert date here] (Auth: HRS §183-2, 195D-3, 195D-6) (Imp: HRS §183-2, 195D-3, 195D-6)

§13-126-31 Firearms and other weapons.

(a) No person shall use or possess bow and arrows, crossbows, firearms, pellet or BB guns, slingshots, or other implements designed to discharge projectiles except as provided herein.

(b) Firearms and other weapons may be used or possessed if in accordance with sections §13-126-4 and §13-126-26 and the rules of the department. Firearms and other weapons shall be unloaded when transported through non-hunting areas of the premises. [Eff insert date here] (Auth: HRS §183-2, 195D-3, 195D-6) (Imp: HRS §183-2, 195D-3, 195D-6)

§13-126-32 Fires. No person shall discard any lighted objects, or start or maintain a fire, including use of portable stoves or cooking devices. [Eff insert date here] (Auth: HRS §183-2, 195D-3, 195D-6) (Imp: HRS §183-2, 195D-3, 195D-6)

§13-126-33 Fishing. No person shall engage, or assist in, any fishing activity within any State Wildlife Sanctuary without the written permission of the board or its authorized representative, except fishing from offshore islands or islets as allowed by the rules of the department. [Eff insert date here] (Auth: HRS §183-2, 195D-3, 195D-6) (Imp: HRS §183-2, 195D-3, 195D-6)

§13-126-34 Geological features. No person shall destroy, disturb, or mutilate any geological features or dig or remove sand, earth, gravel, mineral, rock, fossil, coral, or any other substance except for

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digging in sand areas of beaches. No person shall excavate or quarry any stone, or lay, set, or cause any blast or explosion, or assist in these acts, without the written permission of the board or its authorized representative. [Eff insert date here] (Auth: HRS §183-2, 195D-3, 195D-6) (Imp: HRS §183-2, 195D-3, 195D-6)

§13-126-35 Hunting. No person shall engage, or assist in, any hunting activity within any State Wildlife Sanctuary without the written permission of the board or its authorized representative, except as provided by the rules of the department. [Eff insert date here] (Auth: HRS §183-2, 195D-3, 195D-6)

§13-126-36 Intoxication; drug incapacitation.

(a) No person shall use or possess narcotics, or drugs, provided that a person may use or possess drugs legally prescribed by a physician. No person shall enter or remain within the premises when under the influence of alcohol, narcotics, or drugs.

(b) No person shall use or possess alcohol except with written permission of the board or its authorized representative. [Eff insert date here] (Auth: HRS §183-2, 195D-3, 195D-6) (Imp: HRS §183-2, 195D-3, 195D-6)

§13-126-37 Memorials and Markers. No person shall install any monument, memorial, tablet, or other commemorative installation, except with the written permission of the board or its authorized representative. [Eff insert date here] (Auth: HRS §183-2, 195D-3, 195D-6) (Imp: HRS §183-2, 195D-3, 195D-6)

§13-126-38 Modelcraft operation. No person shall operate motorized aircraft, automobile, watercraft or other similar models except with the written permission of the board or its authorized representative. [Eff: insert date here] (Auth: HRS §183-2, 195D-3, 195D-6) (Imp: HRS §183-2, 195D-3, 195D-6)

§13-126-39 Portable engines and motors. No person shall operate or use a portable motor driven electric generating plant, pump, compressor, or any other equipment driven by a portable engine or motor without written permission from the board or its authorized representative. [Eff insert date here] (Auth: HRS §183-2, 195D-3, 195D-6) (Imp: HRS §183-2, 195D-3, 195D-6)

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§13-126-40 Public property and resources. The following activities are prohibited within a State Wildlife Sanctuary, except as authorized by the board or its authorized representative:

(a) To remove, injure, take, or kill any natural object or plant or animal, either in whole or in part;

(b) To enter into, place any vessel or material in or on, or otherwise disturb, a lake or pond.

(c) To remove, damage, or disturb any historic or prehistoric feature or remains. [Eff insert date here] (Auth: HRS §183-2, 195D-3, 195D-6) (Imp: HRS §183-2, 195D-3, 195D-6)

(d) To remove, damage, or disturb any geological or paleontological feature or substance. [Eff insert date here] (Auth: HRS §183-2, 195D-3, 195D-6) (Imp: HRS §183-2, 195D-3, 195D-6);

(e) To remove, damage, or disturb any equipment, notice, marker, or structure, or the failure to leave any gates as found;

(f) To engage in any construction or improvement except as authorized by the board.

[[Eff insert date here] (Auth: HRS §183-2, 195D-3, 195D-6) (Imp: HRS §183-2, 195D-3, 195D-6)

§13-126-41 Report of injury or damage. All incidents resulting in injury or death to persons or damage to property shall be reported as soon as possible to the board or its authorized representative. This report does not relieve persons from the responsibility of making any other report which may be required under federal, state, or county laws, ordinances, rules and regulations. [Eff 4/16/90] (Auth: HRS §183-2, 195D-3, 195D-6) (Imp: HRS §183-2, 195D-3, 195D-6)

§13-126-42 Residence prohibited. No person shall enter, occupy, or establish a temporary or permanent residence within a State Wildlife Sanctuary except with a permit or other written agreement with the board. [Eff 4/16/90] (Auth: HRS §183-2, 195D-3, 195D-6) (Imp: HRS §183-2, 195D-3, 195D-6)

§13-126-43 Sanitation and litter.

(a) All persons shall dispose of garbage, trash, refuse, waste material, and rubbish of any kind only at places designated for its disposal or shall remove it

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from the premises. No person shall remove refuse or garbage from refuse containers nor remove or relocate such containers.

(b) No person shall drain or dump garbage, trash, rubbish, refuse, or waste except in places or receptacles provided for this use.

(c) No person shall bring, carry, or transport garbage, trash, rubbish, refuse, or waste from outside the premises for deposit or dumping on the premises.

(d) No person shall pollute or contaminate any watershed, or water used for drinking purposes in any manner.

(e) No person shall dispose of fish entrails or other parts of fish or animals into waters within or adjacent to any state wildlife sanctuary. No person shall dispose of fish entrails or other parts of fish or animals into any wildlife sanctuary at any time.

(f) No person shall urinate or defecate on the premises other than in the toilet facilities provided. [Eff insert date here] (Auth: HRS §183-2, 195D-3, 195D-6) (Imp: HRS §183-2, 195D-3, 195D-6)

§13-126-44 Swimming; nudity. A person may swim or bathe except in waters and at times where these activities are prohibited in the interest of public health or safety. These waters shall be designated by posting of appropriate signs. No person shall bathe, swim, walk, sunbathe, or remain on the premises in the nude, or take outdoor showers in the nude, except for bathing or changing clothes within enclosed facilities provided for those purposes or for the exposed breast of a nursing mother in the act of breastfeeding an infant. [Eff insert date here] (Auth: HRS §183-2, 195D-3, 195D-6) (Imp: HRS §183-2, 195D-3, 195D-6)

§13-126-45 Vehicle operation.

(a) No person shall operate any motorized or non-motorized land vehicle or air conveyance of any shape or form in any area, including roads or trails, not designated for its use;

(b) No person shall drive vehicles, motorized or non-motorized bikes faster than posted speed limits, or in a reckless manner, or in a manner that endangers any person, property, flora, or fauna.

(c) No person shall drive vehicles or any other motorized or drawn equipment over, on, or across any road or bridge if the gross load of the vehicle exceeds

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the posted weight limits unless authorized by the board or its authorized representative. [Eff insert date here] (Auth: HRS §183-2, 195D-3, 195D-6) (Imp: HRS §183-2, 195D-3, 195D-6)

(d) Except as otherwise authorized by the Department, no person shall stop, park or permit to remain halted a motorized vehicle in a Wildlife Sanctuary other than in accordance with officially posted signs.

(e) Vehicles parked in violation of posted signs may be impounded by the board or its authorized representative at any time.

(f) No person shall use any motor vehicle, motorized equipment, internal combustion engines, or electric motors unless equipped with efficiently operating fire or spark arresting equipment. [Eff 9/28/81; am and comp 10/15/93] (Auth: HRS §183-2) (Imp: HRS §§183-2, 185-1)

§13-126-46 to 13-126-49 (Reserved)

Subchapter 3: Commercial and Private Operations

§13-126-50 Advertisements. No person shall display, post, or distribute notices or advertisements, except with the prior written permission of the board or its authorized representative. Permission may be granted only if the notice or advertisement relates to services, goods, or facilities available within the premises and the notices and advertisements are found by the board or its authorized representative to be desirable and necessary for the convenience and guidance of the public, or as allowed by section 13-126-7. [Eff insert date here] (Auth: HRS §183-2, 195D-3, 195D-6) (Imp: HRS §183-2, 195D-3, 195D-6)

§13-126-51 Commercial filming, photography, and videotaping.

(a) Before any motion picture is filmed or any video recordings, television production, or sound track is made, which involves the use of professional casts, models, settings, or crews, by any person other than bonafide, newsreel or news television personnel, a person shall obtain a written permit approved by the

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board or its authorized representative which shall be subject to terms, conditions, and fees set by the board.

(b) Before any still photograph may be taken by a commercial photographer for commercial purposes, a person shall obtain a written permit approved by the board or its authorized representative. The permit shall be subject to terms, conditions, and fees set by the board. [Eff insert date here] (Auth: HRS §183-2, 195D-3, 195D-6) (Imp: HRS §183-2, 195D-3, 195D-6)

§13-126-52 Commercial activity. No person shall engage in commercial activities of any kind, without a written permit, contract, license, lease, concession, or other written agreement authorized by the board or its authorized representative. [Eff insert date here] (Auth: HRS §183-2, 195D-3, 195D-6) (Imp: HRS §183-2, 195D-3, 195D-6)

§13-126-53 Fees. All fees collected for commercial activities in wildlife sanctuaries shall be deposited in the Endangered Species Trust Fund. The fees for commercial activities shall be:

<u>Base Commercial Permit processing fee:</u>	<u>\$10</u>
Price per person:	\$5
Price per one or two person vessel, bicycle, or horseback rider:	\$7
Price per vessel or vehicle including 3-5 people:	\$25
Price per vessel or vehicle including up to 8 people:	\$50
Price per vessel or vehicle including up to 12 people:	\$75
Price per vessel or vehicle including up to 15+ people:	\$100
Price per operator and/or passenger of aerial craft:	\$5
<u>Price per day for commercial still photography or filming</u>	<u>TBD</u>

[Eff insert date here] (Auth: HRS §195D-31) (Imp: HRS §15D-31)

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§13-126-54 to 13-126-59 (Reserved)

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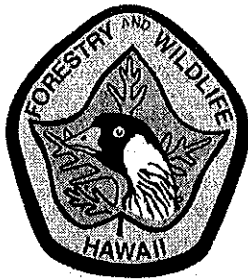
The adoption of Chapter 13-125, and repeal of Chapter 13-125, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules drafted in the Ramseyer format pursuant to the requirements of section 91-41, Hawaii Revised Statutes, which were adopted on (insert date here) and filed with the office of the Lieutenant Governor.

Chairperson, Board of
Land and Natural
Resources

APPROVED AS TO FORM

Deputy Attorney General



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*Conserve Working Forest Landscapes – Protect Forests From Harm
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¹Up to \$300,000

Dollar Amount Requested ¹ :	\$300,000
Matching dollar amount ² :	\$300,000
In kind matching amount ² :	\$50,000

²Non-federal matching dollars only.

Project Title:

**Controlling Habitat Modifying Weeds in
Hawaii's Priority Watershed Areas**

Contact person: Lisa Ferentinos

Address: 1151 Punchbowl St. Rm. 325

Phone: 808-586-0917

Email: Lisa.Ferentinos@hawaii.gov

Describe which of the following themes your project falls within: Conserve Working Forest Landscapes – Protect Forests From Harm – Enhance Public Benefits From Trees and Forests. [It can be more than one]

Protect Forests From Harm and Enhance Public Benefits From Trees and Forests

Partner Agencies/Organizations: [Federal partners are ok but can't use as match]

The following 10 watershed partnerships will participate in the project: Koolau Mountains Watershed Partnership, East Maui Watershed Partnership, West Maui Mountains Watershed Partnership, Waianae Mountains Watershed Partnership, Leeward Haleakala Watershed Partnership, Lanai Hale Forest and Watershed Partnership, Three Mountain Alliance, Kohala Watershed Partnership, Mauna Kea Watershed Alliance, Kauai Watershed Alliance. These represent alliances of over 60 private and public landowners protecting over 1 million acres of forest statewide.

The following entities will provide support to the project:

University of Hawaii (Pacific Cooperative Studies Unit), Tri-Isle Resource and Development Inc., The Nature Conservancy, University of Hawaii at Hilo, The Kohala Center, and Malama Kahalawai.

Project Duration (1-3 years):

2 years

Stand alone project or regional: [If regional describe who the other States or US Pacific Islands are and who the lead will be.]



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Stand alone.

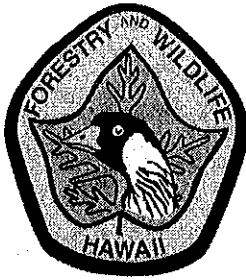
Project Description: [Include a description of the methods and expected outcomes. Describe the collaboration with and contributions from the partner agencies.]

This project will produce and analyze high resolution imagery for the identification and monitoring of habitat modifying weeds in approximately 75,000 acres of forest land prioritized by local watershed partnerships. The Kauai Watershed Alliance, in cooperation with The Nature Conservancy Hawaii (TNCH), the US Geological Survey (USGS) and Resource Mapping Hawaii (RMH) has been developing a method to consistently and cheaply map and monitor key weed species from the air. Early attempts focused on utilizing satellite based imagery (Quickbird/IKONOS), but Hawaii's prominent cloud cover, remote and rugged terrain, and abundant native and invasive species diversity proved this approach to be futile. RMH and USGS were then contracted to resolve these issues for a portion of Kaua'i. Several years of tests have culminated in unprecedented imagery at ultra high resolution, enabling many species to be distinguishable within the imagery. RMH developed a system that produces a low-cost, interpretable and repeatable product that can be used to uncover the scale of a weed infestation on the landscape, and monitor structural and cover parameters for site comparison or change detection at repeat-sampling plots.

The primary goal of this proposed project is to control the threat of habitat modifying weeds at a landscape scale through the expanded production and analysis of imagery for every watershed partnership in the state. Each of 9 partnerships has prioritized approximately 5,000 to 10,000 acres to map areas where they are planning to focus control efforts first. The innovation lies in the strategic approach to this targeted control. For the first time, we will have a strong understanding of where our weed control efforts are best targeted, and can track our progress against an infestation. This innovation will be enabled by technology: detailed distribution maps and abundance data on selected priority habitat-modifying weeds in areas within and adjacent to native-dominated forest ecosystems. This will be accomplished through the collection and analysis of very high resolution natural color and multispectral images.

Although each project site deals with a different suite of habitat modifying weeds, they all have the same three basic project components: 1) Image Collection, 2) Image Analysis, and 3) Adaptive Control.

- 1. Image Collection:** RMH will collect, process and analyze imagery from key core sites throughout the State of Hawai'i, utilizing an imaging system that combines geo-referenced extremely high-resolution natural color (2.0 cm/pixel) with high-resolution multi-spectral (15 cm/pixel) images to identify and assign a geographic coordinate to each weed individual. The imaging equipment is permanently installed in a Cessna 182 single-engine plane, and contains three highly specialized cameras. When flying at about 2,000 feet above ground level, the system obtains 2.0cm/pixel resolution from the natural color cameras. This provides a level of detail where the shape of individual trees can be identified, and on trees with large leaves, even individual leaves



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can be recognized.

These two cameras provide the opportunity for stereo viewing to determine vegetation structure, which assists in species identification. A GPS (with Omnistar license) RMS 5m ties each photograph to a geographic location, allowing subsequent georeferencing of individual species from the imagery. The aircraft is also outfitted with peripheral equipment to facilitate imagery acquisition and georeferencing.

2. **Image Analysis:** Post acquisition, the imagery is processed and georeferenced. Initially, ground control points are mathematically derived from GPS positions taken from the plane, projected using data from the aircraft's Internal Navigation System (INS), and then referenced to USGS Digital Orthophoto Quad (DOQ; the most accurate topographic data for most areas). However,

there is 2-8 m RMS (error) associated with the DOQ data for most areas, which is not accurate enough to track individual plants over time.

This project proposes the use of an ALSI-560, full waveform airborne Light Detection And Ranging (LIDAR) imaging system, complete with a scanning laser rangefinder and an integrated GPS/INS system, capable of producing a DEM based on 10cm vertical and 20 cm horizontal RMS. This increased resolution will increase accuracy and speed up processing time.

Weeds are identified from the orthorectified imagery using ERDAS Imagine and ArcGIS. Visual inspection of color, texture, proximity, leaf shape, leaf angle, crown shape, and other visual cues are combined with automated multispectral signature analysis to identify and map individual weeds.

3. **Adaptive Control:** The end result of these efforts is an accurate, cheaply produced map of invasive weeds that can then be given to field conservationists for targeted removal of these habitat-modifying weeds from fragile native-dominated ecosystems in the project area. Over time, this affordable form of monitoring will allow resource managers to finally track and document progress in the battle against watershed-scale invasive species. An Integrated Pest Management (IPM) approach to weed control can then be utilized, consisting of traditional and innovative manual/mechanical methods, herbicides, and/or biological control.

Collaboration: [Describe the local, private, county and other non-governmental groups whose strong collaboration is key to the achievement of project's proposed outcomes.]

The Nature Conservancy and the Kaua'i Watershed Alliance have played an integral part in bringing information regarding this technology to the other watershed partnerships. They will help guide and direct the projects of the other partnerships as outlined in this proposal. Each watershed will work with their local partners to identify priority areas for mapping and subsequent treatment.



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RMH will employ Kipuka, the Native Hawaiian Student Center at the University of Hawai'i at Hilo for a portion of this analysis, training native Hawaiian students to analyze this data set and provide them with a highly useful skill set including basic GIS knowledge and image interpretation.

Sustainability of Outcomes: [The project clearly results in skills and new capabilities that extend beyond the life of the project itself. If there are ongoing or expected State funds supporting the project explain this in detail]

Resource managers have made significant strides in weed control technologies but, without a comprehensive assessment of the overall scale of our weed threats, it has been a nagging concern as to whether we were winning the war against invasive species or merely holding the line. The proposed mapping system will not only provide this much needed comprehensive assessment, but applied incrementally over time, could also monitor the efficacy of any weed control program and the subsequent spread or decline of the targeted weeds.

In addition, three of the watershed partnerships will train existing staff with GIS skills to analyze the imagery. This will enable them to analyze for other weed species in the future. Results of analysis of RMH and watershed partnership staff will result in allow a comparison to guide future decisions in the best approach for analysis.

Leveraging: [How will this project leverage partner resources to complete the proposed work and improve capacity. How will the project increase media exposure, project visibility and buy-in from decision makers? If it is a regional project, explain how this project may affect or increase project outcomes on a larger scale. If you have more match than 1:1 than this is the section to elaborate on that.]

State and private partners will leverage these funds and build capacity of the watershed partnerships to use this more efficient approach to creating weed control strategies. The state of Hawaii provides funding to the watershed partnerships from the state Natural Area Reserve Fund. Private landowning watershed partners will also provide cash and in-kind resources. These leveraged funds will expand the size of imaged areas and pay for staff time to do analysis and control identified weeds.

This new technology has had 4 years of pilot testing on Kaua'i and the field trials have not gone unnoticed by the media and local agencies. An article appeared in Kaua'i People weekly newspaper in September 2008 describing how the development of remote sensing technology will benefit the efforts



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by The Nature

Conservancy's Kaua'i Program to slow the progress of invasive weeds that are threatening to take over the watershed areas.

In February 2009, The State of Hawai'i Governor Linda Lingle presented the Governor's Innovation Award to Dana Slaymaker of Resource Mapping Hawai'i (RMH (a major partner in this project).

Presentations will be made at the 2010 Hawaii Conservation Conference and at annual Hawaii Association of Watershed Partnerships (HAWP) annual symposia. As the project approaches completion press releases will be tailored to the media of each island and for statewide release. The HAWP website will be utilized to report on progress and provide digital still and video imagery that media outlets can access.

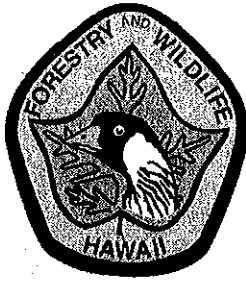
Meaningful Scale: [Scale of the project should be clearly based on and appropriate for the proposed outcomes. Consider using ratio descriptions i.e., island acres vs. project acres or population]

Of the approximately 1 million forested acres included within watershed partnership boundaries, this project will target approximately 75,000 acres of areas prioritized through previous planning efforts undertaken by the watershed partnerships and the State Division of Forestry and Wildlife for Forest Reserves and Natural Area Reserves.

Sphere of Influence: [Project has value beyond areas treated and could provide a model for work elsewhere.]

The mapping and eventual elimination of invasive species provides a suite of environmental benefits on global, statewide and local community scales. Globally, invasive species removal helps to maintain Hawaii's globally significant and rare and endangered species and habitats. On both a statewide and local community scale, the project will contribute to the restoration of ecosystem services by removal of invasive habitat-modifying weeds, which often negatively impact groundwater recharge as well as air, water, and soil quality, and cultural and recreation values.

The technological innovation aspects of the project exhibit wide-ranging application and a high level of transferability. The applications of the project transcend both topic (weed control) and location (Hawai'i), and demonstrate merit over infinite applications, potential users, and geographies. For example, the aerial mapping system enables progress monitoring and effectiveness of control efforts on the landscape over time, something never before conducted at such a large scale. It allows those interested in native species conservation, agriculture, or commercial forestry to declare the success of eradication efforts, to track new areas of alien species invasion, and to recognize other changes in the landscape, like damage from feral animals. It will even allow identification of new problem weeds, using



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their multispectral and visual signatures to recognize when and how they invaded the landscape. The system will make it possible to see patterns of change in the watershed ecosystem even at the microhabitat level, which may be correlated to things like global climate change or El Nino/La Nina events. Other potential future applications can include animal surveys under open to semi-open conditions, near shore and shallow reef reconnaissance, and land use mapping.

Program Integration: [How does this project work across USFS program areas in a meaningful way?

Program areas include urban forestry, forest protection, invasive plants, acquisition of important forest lands and forest products (including ecosystem services)]

This project will include forest protection, invasive plants and forest products, especially sustainable water production through protection of high yielding watershed areas.

